



November 29, 2011

The Honorable Charles Boustany
Chairman
Ways & Means Subcommittee on Oversight
U.S. House of Representatives
1431 Longworth House Office Building
Washington, D.C. 20515

The Honorable John Lewis
Ranking Member
Ways & Means Subcommittee on Oversight
U.S. House of Representatives
343 Cannon House Office Building
Washington, D.C. 20515

Dear Chairman Boustany and Ranking Member Lewis:

On behalf of the National Federation of Independent Business (NFIB), the nation's leading small business advocacy organization, we write today to report the findings of a July 2011 NFIB Research Foundation survey regarding the Patient Protection and Affordable Care Act (PPACA) small business tax credit's impact on small business and their ability to offer health insurance coverage. We believe the survey, [*Small Business and Health Insurance: One Year After Enactment of PPACA*](#), accurately demonstrates small business owner reaction to the PPACA small business tax credit and is verified by two recent government analyses.

The high cost of health insurance remains a top problem for small employers and will likely remain so for a long time. However, PPACA's extraordinarily complex small business tax credit offered little incentive to purchase health insurance for small firms currently not offering coverage. Instead, it serves almost exclusively as a windfall for small businesses who currently offer coverage to employees.

Eligibility versus Actual Claims

The President's Council of Economic Advisors estimated over four million small businesses would be eligible for the PPACA small business tax credit. However, our survey found that far fewer than four million small employers are eligible for the tax credit. We estimated that 245,000 small businesses, or less than 5 percent of the small business population, are eligible for the full PPACA small business tax credit. Another 1.165 million, or a little over 20 percent of that population, are eligible for a partial credit. The estimate of far fewer than four million was verified by a September 2011 Small Business Administration (SBA) Office of Advocacy report titled *Health Insurance in the Small Business Market: Availability, Coverage, and the Effect of Tax Incentives* that estimated 2.6 million firms will be eligible for the partial benefit.

The lower estimates by our Research Foundation and the SBA Office of Advocacy report occurred for multiple reasons. Eligibility for the credit is based on a complicated combination of four tests: (1) the offer of employee health insurance, (2) fewer than 11 employees for the full credit phasing out and capped at 25 employees, (3) average annual employee wages of \$25,000 or less phasing out and capped

at \$50,000 and, (4) employer payment of at least 50 percent of the employee's health insurance premium. The Administration's estimate may have been high because the IRS did not have ready access to data that allowed it to determine which businesses that fit the size and average wage parameters actually offer health insurance, offer the right kind of health insurance, or employ family members that would disqualify them from credit eligibility.

Despite an aggressive education and outreach campaign by the Administration, the actual results have been even more underwhelming than estimated, with 309,000 taxpayers claiming the credit as of mid-October 2011, according to the Treasury Inspector General for Tax Administration (TIGTA) testimony. The low volume of claims depends on a variety of factors – the complexity of calculating the credit, the temporary nature of the credit, and the uncertain future of the health insurance market after the passage of PPACA.

Complexity

Small employers cannot easily determine the value of the credit, according to our survey. The amount of the credit is often unknown until a complex calculation is made. Our survey found more small business owners had interest in pursuing a hypothetical, simply structured \$1,500 credit per full-time employee than pursuing the PPACA small business tax credit. Our survey results are verified by the TIGTA report's findings that (1) taxpayers are unclear on the specifics of the credit and (2) the credit is not worth the time and effort to claim as multiple steps are required to calculate it and seven worksheets must be completed in order to claim it.

Temporary, Targeted Nature

The temporary credit will erode over time. Because it is temporary in nature, expiring in four to six years, depending on certain circumstances, it does not appeal to employers who do not offer insurance. The rising cost of providing insurance is a deterrent for many small businesses to begin offering insurance. A temporary, targeted tax credit does little to offset the high cost of beginning to provide health insurance and the expiration of the credit will result in a significant increase in health insurance costs. The SBA Office of Advocacy wrote, "It remains to be seen whether the provisions in Federal health care reform will be sufficient to overcome the barriers to small businesses offering health insurance to their employees... the unpredictable costs associated with providing health insurance may continue to deter small businesses from offering health insurance to their employees." This result is consistent with the SBA Office of Advocacy's findings on state tax incentives for offering health insurance, which have generally not lead to increases in offering rates because the level of incentives have been small compared to the cost of offering coverage.

Uncertain Future

Further, the SBA Office of Advocacy reported that small employers may be reluctant to offer health insurance to their employees because of uncertainty about the effects of PPACA. Small employers may "wait and see" whether exchanges are created and viable. Other small firms may not offer new

employee benefits due to an uncertain economy and tax and regulatory environment. Uncertainty about future costs of health insurance with the development of exchanges and costs of the essential health benefit package is preventing non-offering firms from beginning to offer the benefit.

Conclusion

According to our survey, for those offering, the PPACA tax credit serves almost exclusively as a windfall since recipients receive a credit for what they were already doing. It provides virtually no incentive for non-offering firms to purchase health insurance. Similarly, the SBA Office of Advocacy reported that the credit will primarily benefit small businesses that currently offer insurance to their employees. This windfall is contrary to the advertised goal of incentivizing small businesses who do not currently offer health insurance to do so.

Thank you for holding this Ways and Means Oversight Subcommittee hearing on Small Business Health Insurance Tax Credit and permitting the opportunity to share NFIB Research Foundation's survey results on the topic.

Sincerely,

A handwritten signature in black ink, reading "Susan Eckerly". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Susan Eckerly
Senior Vice President
Public Policy